

2003 DRAFTING REQUEST**Assembly Amendment (AA-AB470)**Received: **10/30/2003**Received By: **gmalaise**Wanted: **Soon**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**By/Representing: **Himself**This file may be shown to any legislator: **NO**Drafter: **gmalaise**May Contact: **Judith Olson (920) 734-0966**
ccrrcow@athenet.net

Addl. Drafters:

Subject: **Children - day care**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Wieckert@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Voluntary child care provider registry; permit DHFS to contract for administration of

Instructions:

Permit DHFS to contract with a child care resource and referral agency to administer the voluntary registry

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			11/05/2003 _____		11/05/2003	11/05/2003	

FE Sent For:

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1/?	gmalaise	1 1/5 JLD	1/5 PS	1/5 Self			

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~~When jacketed?~~

AB 470

Agency maintain registry

Request agency to list in registry

Agency conduct background check

Agency list in registry

Demonstrate that to Agency that has been rehabilitated

Parent request Agency to search registry



State of Wisconsin
2003 - 2004 LEGISLATURE

500

LRBa16307
GMM: A:....

1
JLd

ASSEMBLY AMENDMENT ,
TO 2003 ASSEMBLY BILL 470

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 1, line 7: after "Services" insert "or a local agency contracted by that
- 3 department".
- 4 2. Page 4, line 17: after that line insert:
- 5 "SECTION 4m. 48.685 (1) (bj) of the statutes is created to read:
- 6 48.685 (1) (bj) "Local agency" means a nonprofit, tax-exempt corporation
- 7 contracted with under sub. (2) (ar) 3. to administer sub. (2) (ar).".
- 8 3. Page 5, line 1: delete lines 1 to 25.
- 9 4. Page 6, line 1: delete lines 1 to 25.
- 10 5. Page 7, line 1: delete lines 1 to 8 and substitute:
- 11 "SECTION 6d. 48.685 (2) (am) (intro.) of the statutes is amended to read:
- 12 48.685 (2) (am) (intro.) The department, a county department, a child welfare
- 13 agency, or a school board shall obtain all of the following with respect to a caregiver

1 specified in sub. (1) (ag) 1. b., a nonclient resident of an entity, and a person under
2 18 years of age, but not under 12 years of age, who is a caregiver of a day care center
3 that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14)
4 or of a day care provider that is certified under s. 48.651 and the department or a local
5 agency shall obtain all of the following with respect to a caregiver specified in sub.
6 (1) (ag) 1. c. who applies for registration under par. (ar) 1. and, if applicable, a
7 nonclient resident of that caregiver:

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109.

8 **SECTION 7d.** 48.685 (2) (am) 5. of the statutes is amended to read:

9 48.685 (2) (am) 5. Information maintained by the department under this
10 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
11 to the person of a license, continuation or renewal of a license, certification, or a
12 contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and
13 regarding any denial to the person of employment at, a contract with, or permission
14 to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and information
15 maintained by the department or a local agency under this section regarding any
16 denial to the person of registration under par. (ar) 1. for a reason specified in sub.
17 (4m) (a) 1. to 5. If the information obtained under this subdivision indicates that the
18 person has been denied a license, continuation or renewal of a license, certification,
19 a contract, registration, employment, or permission to reside as described in this
20 subdivision, the department, a local agency, a county department, a child welfare
21 agency, or a school board need not obtain the information specified in subds. 1. to 4.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109.

22 **SECTION 8d.** 48.685 (2) (ar) of the statutes is created to read:

23 48.685 (2) (ar) 1. The department or a local agency shall establish and maintain
24 a registry listing all caregivers specified in sub. (1) (ag) 1. c. who have applied for

1 registration under this subdivision and who have been determined by the
2 department or local agency to be eligible for listing in the registry. Any caregiver
3 specified in sub. (1) (ag) 1. c. may request the department or local agency to list the
4 caregiver's name in the registry. On receipt of such a request, the department or local
5 agency shall obtain the information specified in sub. (2) (am) 1. to 5. for the caregiver
6 and, if the caregiver is providing, or is expected to provide, care and supervision for
7 clients in the caregiver's home, all nonclient residents of the caregiver. If none of the
8 circumstances specified in sub. (4m) (a) 1. to 5. apply to the caregiver or, if applicable,
9 to any nonclient resident of the caregiver, the department or local agency shall list
10 the caregiver in the registry and so advise the caregiver. If any of the circumstances
11 specified in sub. (4m) (a) 1. to 5. apply to the caregiver or, if applicable, to any
12 nonclient resident of the caregiver, the department or local agency may not list the
13 caregiver in the registry and shall so advise the caregiver, stating the specific reason
14 why the caregiver is ineligible for listing in the registry. A caregiver who is denied
15 listing in the registry may demonstrate to the department or local agency under sub.
16 (5) (a) that the caregiver or, if applicable, any nonclient resident of the caregiver has
17 been rehabilitated.

18 2. Any individual who has employed or contracted with, or who is expecting to
19 employ or contract with, a caregiver specified in sub. (1) (ag) 1. c. to provide care and
20 supervision for a child of the individual may request the department or local agency
21 to search the registry for the name of the caregiver. On receipt of such a request, the
22 department or local agency shall search the registry for the name of the caregiver and
23 shall advise the individual whether the person is listed in the registry.

1 3. The department may contract with a nonprofit, tax-exempt corporation, as
2 defined ins. 49.134 (1) (c), that provides child care resource and referral services to
3 administer this paragraph.

4 **SECTION 9d.** 48.685 (2) (b) 1. e. of the statutes is amended to read:

5 48.685 (2) (b) 1. e. Information maintained by the department under this
6 section and under ss. 48.651 (2m), 48.75 (1m), and 120.13 (14) regarding any denial
7 to the person of a license, continuation or renewal of a license, certification, or a
8 contract to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and
9 regarding any denial to the person of employment at, a contract with, or permission
10 to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and information
11 maintained by the department or a local agency under this section regarding any
12 denial to the person of registration under par. (ar) 1. for a reason specified in sub.
13 (4m) (a) 1. to 5. If the information obtained under this subd. 1. e. indicates that the
14 person has been denied a license, continuation or renewal of a license, certification,
15 a contract, registration, employment, or permission to reside as described in this
16 subd. 1. e., the entity need not obtain the information specified in subd. 1. a. to d..

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 165, 186; 2001 a. 109.

17 **6.** Page 7, line 16: delete lines 16 to 25.

18 **7.** Page 8, line 1: delete lines 1 to 25.

19 **8.** Page 9, line 1: delete lines 1 to 11 and substitute:

20 **"SECTION 11d.** 48.685 (2) (bd) of the statutes is amended to read:

21 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a local
22 agency, a county department, a child welfare agency, or a school board is not required
23 to obtain the information specified in par. (am) 1. to 5., and an entity is not required
24 to obtain the information specified in par. (b) 1. a. to e., with respect to a person under

1 18 years of age whose background information form under sub. (6) (a) or (am) ✓
2 indicates that the person is not ineligible to be registered under par. (ar) 1. for a ✓
3 reason specified in sub. (4m) (a) 1. to 5. or to be employed, contracted with, or ✓
4 permitted to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and with
5 respect to whom the department, local agency, county department, child welfare
6 agency, school board, or entity otherwise has no reason to believe that the person is
7 ineligible to be ^{registered} employed, contracted with, or permitted to reside at an entity for any
8 of those reasons. This paragraph does not preclude the department, a county
9 department, a child welfare agency, or a school board from obtaining, at its
10 discretion, the information specified in par. (am) 1. to 5. with respect to a person
11 described in this paragraph who is a nonclient resident or a prospective nonclient
12 resident of an entity or the department or a local agency from obtaining, at its
13 discretion, that information with respect to a person described in this paragraph who
14 is a nonclient resident or a prospective nonclient resident of a caregiver specified in
15 sub. (1) (ag) 1. c. ✓

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109. ✓

16 **SECTION 12d.** 48.685 (3) (a) of the statutes is amended to read:

17 48.685 (3) (a) Every 4 years or at any time within that period that the
18 department, a county department, a child welfare agency, or a school board considers
19 appropriate, the department, county department, child welfare agency, or school
20 board shall request the information specified in sub. (2) (am) 1. to 5. for all persons
21 who are licensed, certified, or contracted to operate an entity, for all persons who are
22 nonclient residents of an entity, and for all persons under 18 years of age, but not
23 under 12 years of age, who are caregivers of a day care center that is licensed under
24 s. 48.65 or established or contracted for under s. 120.13 (4) or of a day care provider

1 that is certified under s. 48.651. Every 4 years or at any time within that period that
2 the department or a local agency considers appropriate, the department or local
3 agency shall request the information specified in sub. (2) (am) 1. to 5. for all
4 caregivers who are registered under sub. (2) (ar) 1. and, if applicable, all nonclient
5 residents of those caregivers.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 36, 185, 186; 2001 a. 109.

6 **SECTION 13d.** 48.685 (3m) of the statutes is amended to read:

7 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
8 local agency, a county department, a child welfare agency, or a school board has
9 obtained the information required under sub. (2) (am) or (3) (a) with respect to a
10 person who is a caregiver specified in sub. (1) (ag) 1. b., a caregiver registered under
11 sub. (2) (ar) 1., or, if applicable, a nonclient resident of a caregiver registered under
12 sub. (2) (ar) 1., and if that person is also an employee, contractor, or nonclient
13 resident of an entity, the entity is not required to obtain the information specified in
14 sub. (2) (b) 1. or (3) (b) with respect to that person.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 36, 185, 186; 2001 a. 109.

15 **SECTION 14d.** 48.685 (4m) (a) (intro.) of the statutes is amended to read:

16 48.685 (4m) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
17 par. (ad) and sub. (5), the department may not license, or continue or renew the
18 license of, a person to operate an entity, the department or a local agency may not
19 register a person under sub. (2) (ar) 1., a county department may not certify a day
20 care provider under s. 48.651, a county department or a child welfare agency may not
21 license, or renew the license of, a foster home or treatment foster home under s. 48.62,
22 and a school board may not contract with a person under s. 120.13 (14), if the

department, local agency, county department, child welfare agency or school board knows or should have known any of the following:”.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109.

9. Page 10, line 10: delete lines 10 to 25.

10. Page 11, line 1: delete lines 1 to 25.

11. Page 12, line 1: delete lines 1 to 18 and substitute:

“SECTION 18d. 48.685 (5) (a) of the statutes is amended to read:

48.685 (5) (a) The department may license to operate an entity, the department or a local agency may register under sub. (2) (ar) 1., a county department may certify under s. 48.651, a county department or a child welfare agency may license under s. 48.62, and a school board may contract with under s. 120.13 (14) a person who otherwise may not be licensed, registered, certified, or contracted with for a reason specified in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside at the entity a person who otherwise may not be employed, contracted with, or permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the department, the local agency, the county department, the child welfare agency, or the school board or, in the case of an entity that is located within the boundaries of a reservation, to the person or body designated by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with procedures established by the department by rule or by the tribe that he or she has been rehabilitated.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109.

SECTION 18m. 48.685 (5c) (a) of the statutes is amended to read:

48.685 (5c) (a) Any person who is permitted but fails under sub. (5) (a) to demonstrate to the department, a local agency, or a child welfare agency that he or she has been rehabilitated may appeal to the secretary of health and family services

1 or his or her designee. Any person who is adversely affected by a decision of the
2 secretary or his or her designee under this paragraph has a right to a contested case
3 hearing under ch. 227.

History: 1997 a. 27, 237, 281; 1999 a. 9, 30, 56, 185, 186; 2001 a. 104

4 **SECTION 19d.** 48.685 (5m) of the statutes is amended to read:

5 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
6 a person to operate an entity, a county department or a child welfare agency may
7 refuse to license a foster home or treatment foster home under s. 48.62, and an entity
8 may refuse to employ or contract with a caregiver or permit a nonclient resident to
9 reside at the entity if the person has been convicted of an offense that is not a serious
10 crime, but that is, in the estimation of the department, county department, child
11 welfare agency, or entity, substantially related to the care of a client.
12 Notwithstanding s. 111.335, the department may refuse to license a person to
13 operate a day care center, the department or a local agency may refuse to register a
14 person under sub. (2) (ar) 1., a county department may refuse to certify a day care
15 provider under s. 48.651, a school board may refuse to contract with a person under
16 s. 120.13 (14), and a day care center that is licensed under s. 48.65 or established or
17 contracted for under s. 120.13 (14) and or a day care provider that is certified under
18 s. 48.651 may refuse to employ or contract with a caregiver or permit a nonclient
19 resident to reside at the day care center or day care provider if the person or, if
20 applicable under sub. (2) (ar) 1., a nonclient resident of the person has been convicted
21 of or adjudicated delinquent on or after his or her 12th birthday for an offense that
22 is not a serious crime, but that is, in the estimation of the department, local agency.

1 county department, school board, day care center, or day care provider, substantially
2 related to the care of a client.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109^X

3 **SECTION 20d.** 48.685 (6) (a) of the statutes is amended to read:

4 48.685 (6) (a) The department shall require any person who applies for
5 issuance, continuation, or renewal of a license to operate an entity, the department
6 or a local agency shall require any person who applies for registration under sub. (2)
7 (ar) 1. and, if applicable, a nonclient resident of a person who applies for registration
8 under sub. (2) (ar) 1., a county department shall require any day care provider who
9 applies for initial certification under s. 48.651 or for renewal of that certification, a
10 county department or a child welfare agency shall require any person who applies
11 for issuance or renewal of a license to operate a foster home or treatment foster home
12 under s. 48.62, and a school board shall require any person who proposes to contract
13 with the school board under s. 120.13 (14) or to renew a contract under that
14 subsection, to complete a background information form that is provided by the
15 department. Every 4 years the department or a local agency shall require all person
16 who are registered under sub. (2) (ar) 1. and, if applicable, all nonclient residents of
17 those persons to complete a background information form that is provided to the
18 person or nonclient resident by the department or local agency.[✓]

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109^X

19 **SECTION 21d.** 48.685 (8) of the statutes is amended to read:

20 48.685 (8) The department, a local agency, a county department, a child welfare
21 agency, or a school board may charge a fee for obtaining the information required
22 under sub. (2) (am) or (3) (a), for providing information to individuals under sub. (2)
23 (ar) 2.[✓] or for providing information to an entity to enable the entity to comply with
24 sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable cost of obtaining or

1 providing [✓] the information. No fee may be charged to a nurse's assistant, as defined
2 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be
3 inconsistent with federal law." [✓]

4 **History:** 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109.

(END)